



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,287	01/23/2004	Michael D. Ellis	81788-4300	9180

28765 7590 03/16/2011
WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON, DC 20006

EXAMINER

KARIKARI, KWASI

ART UNIT	PAPER NUMBER
----------	--------------

2617

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

03/16/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@winston.com
mwalker@winston.com

Office Action Summary	Application No. 10/764,287	Applicant(s) ELLIS ET AL.	
	Examiner KWASI KARIKARI	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-6, 14-16 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-6, 14-16 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/27/2010 and 11/15/2010</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 10/27/2010 and 11/15/2010 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Arguments

2. Applicant's arguments, filed on 12/20/2010 with respect to claims 4-6, 14-16 and 29 in the remarks, have been considered but are moot in view of the new ground(s) of rejection necessitated by the new limitations added to claim 29. See the rejection below of claims 4-6, 14-16 and 29 for relevant citations found in Kivela disclosing the newly added limitations.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 14-16 and 29 are rejected under U.S.C. 102(e) as being anticipated by Kivela et al. (U.S 6,272,359), (hereinafter Kivela).

Art Unit: 2617

Regarding claim 29, Kivela disclose a system for providing a modular personal network ("MPN") (= i.e., forming links between devices, see col. 10. lines 1-9; col. 15, lines 20-35 and Figs. 3a., items 2, 19a, 19b and 45 and 8) comprising:

a plurality of jewelry individual network components (Figs. 3a., items 2, 19a, 19b and 45 and 8) in wireless communication with each other (= communication links between devices, see col. 3, line 32- col. 4, line 23; and first part can be kept on a belt, and the second part on the wrist; and modules 85,89-91, with individual power supply, provides different user function, e.g., module 90 is used as pda to receive e-mail; and module 91 is use to measure blood glucose; see col. 2, lines 22-29 and col. 4, lines 11-23; col. 15, lines 20-55; and Figs. 1a, 4a & 8) via a wireless network protocol (= infrared data communication, see col. 4, lines 24-47; and GSM/CDMA, see col. 14, lines 16-30 and 60-67; col. 15, lines 1-5 and abstract); wherein each of the jewelry individual network component is worn or carried by a user (see Figs. 3a., items 2, 19a, 19b and 45 and 8) and configured to store that component's device identification used in the network protocol and the modular personal network in addressing other components during network communications (= communication between peripheral modules 89-91 and core module 85, see col. 15, lines 20-33; col. 15, line 60- col. 16, line 6; and using stored IMEI to securely identify telephone/part 3 and situation where several telephones are within the range of connection LINK1, see col. 6, lines 37-63) and network identification information identifying a current modular personal network in which the components are operating (= see col. 15, lines 14-19; and the "network identification

Art Unit: 2617

information” is an inherent feature of a CDMA system which includes base stations);
and

wherein each component is configured to adapt to an addition or removal of any modular personal network component of the MPN from the MPN to continue to provide the functions of the remaining plurality of jewelry individual network components (= communication links between devices, see col. 3, line 32- col. 4, line 23; and first part can be kept on a belt, and the second part on the wrist; and modules 85,89-91, with individual power supply, provides different user function, e.g., module 90 is used as pda to receive e-mail; and module 91 is use to measure blood glucose; see col. 2, lines 22-29 and col. 4, lines 11-23; col. 15, lines 20-55; and Figs. 1a, 4a & 8): and

whereby each component in the modular personal network of a user performs one or more actions in response to another component in the modular personal network being removed from the network wherein that action adapts the one or more remaining component to operate with other and continue to generate an output (= communication links between devices, see col. 3, line 32- col. 4, line 23; and first part can be kept on a belt, and the second part on the wrist; and modules 85,89-91, with individual power supply, provides different user function, e.g., module 90 is used as pda to receive e-mail; and module 91 is use to measure blood glucose; see col. 2, lines 22-29 and col. 4, lines 11-23; col. 15, lines 20-55; and Figs. 1a, 4a & 8).

Art Unit: 2617

Regarding claim 14 , as cited in claim 29, **Kivela** further discloses wherein at least one of the jewelry-individual network component is a new network component that is added to implement a new function for the user in the modular personal network (= communication links between devices, see col. 3, line 32- col. 4, line 23; and first part can be kept on a belt, and the second part on the wrist; and modules 85,89-91, with individual power supply, provides different user function, e.g., module 90 is used as pda to receive e-mail; and module 91 is use to measure blood glucose; see col. 2, lines 22-29 and col. 4, lines 11-23; col. 15, lines 20-55; and Figs. 1a, 4a & 8).

Regarding claim 15, as cited in claim 29, **Kivela** further discloses wherein at least one of the the jewelry-individual network component, is a new network components automatically join the modular personal network (= communication links between devices, see col. 3, line 32- col. 4, line 23; and first part can be kept on a belt, and the second part on the wrist; and modules 85,89-91, with individual power supply, provides different user function, e.g., module 90 is used as pda to receive e-mail; and module 91 is use to measure blood glucose; see col. 2, lines 22-29 and col. 4, lines 11-23; col. 15, lines 20-55; and Figs. 1a, 4a & 8).

Regarding claim 16, as cited in claim 29, **Kivela** further discloses, wherein the modular personal network automatically continues to operate with any remaining network components when the single network component is removed (= communication links between devices, see col. 3, line 32- col. 4, line 23; and first part can be kept on a belt,

Art Unit: 2617

and the second part on the wrist; and modules 85,89-91, with individual power supply, provides different user function, e.g., module 90 is used as pda to receive e-mail; and module 91 is use to measure blood glucose; see col. 2, lines 22-29 and col. 4, lines 11-23; col. 15, lines 20-55; and Figs. 1a, 4a & 8).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kivela in view of Anderson (US 6,594,370), (hereinafter Anderson).

Regarding claim 4, as recited in claim 29, **Kivela** discloses the jewelry individual network components in a system (see col. 11, line 50- col. 12, line 49); but fails

Art Unit: 2617

specifically to teach that at least one of the jewelry individual network component is an earring speaker wherein the mount is configured to be worn in the pieced ear.

However, **Anderson**, which is an analogous art, equivalently teaches that the jewelry individual network component is an earring speaker wherein the mount is configured to be worn in the pieced ear (= remote processing unit communicates with earpiece, see col. 4, lines 20-35).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Anderson into the system of Kivela for the benefit of achieving a paring method between device thereby providing a system that includes devices with individual functionalities but can communicate via other devices in the system.

Regarding claim 5, as cited in claim 29, , **Kivela** discloses the jewelry individual network components in a system (see col. 11, line 50- col. 12, line 49); but fails to teach the system wherein at least one of the jewelry individual network component the modular component is an earring.

However, **Anderson** teaches that the remote processing unit communicates with earpiece (see col. 4, lines 20-35).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Anderson into the system of Kivela for the benefit of achieving a paring method between device thereby providing a system that includes devices with individual functionalities but can communicate via other devices in the system.

5. **Claim 6 is rejected under U.S.C. 103(a) as being unpatentable over Kivela in view of Willard (U.S. 4,803,487), (hereinafter Willard).**

Regarding claim 6, as recited in claims 29, **Kivela** discloses the claimed limitations concerning the transceiver and circuitry components (= communication links between devices, see col. 3, line 32- col. 4, line 23; and Figs. 1a & 4a); but **Kivela** fails to teach that at least one of the component is a ring individual network component wherein: the mount is of a ring configured to be worn around a user's finger.

However, **Willard**, which is an analogous art, equivalently teaches wherein the jewelry individual network component is a ring individual network component wherein: the mount is of a ring configured to be worn around a user's finger (see col. 3, lines 51-61).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Willard into the system of Kivela for the benefit of achieving a system that include communication receiver which utilizes a separate presentation unit for display of received data message (see Willard col. 2, lines 14-26).

CONCLUSION

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwasi Karikari whose telephone number is 571-272-8566. The examiner can normally be reached on M-T (5:30am – 3:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571-272-7904.

The fax phone number for the organization where this application or proceeding is assigned is **571-273-8566**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

<p>/Kwasi Karikari/ Patent Examiner: Art Unit 2617.</p>
